

Center on Race, Poverty, & the Environment

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Ms. Malinda Hall Cal/EPA - Office of the Secretary
Cal/EPA EJ Program P.O. Box 2815
Sacramento, CA, 95812

Re: COMMENTS on Cal/EPA Environmental Justice Strategy

Dear Ms. Hall:

Cal/EPA's Intra-Agency Environmental Justice Strategy declares that it is intended to provide an overarching vision to help guide... decision-making processes and approaches to advance environmental justice.≡ It is not clear whether this document is intended to supplant or supplement Cal/EPA's earlier released EJ Action Plan. Unless it is intended as a supplement or foundation, it appears inadequate to accomplish its stated goals as many of the issues addressed in the Action Plan are not addressed in the current document. CRPE submits these comments in the hope that Cal/EPA will commit to strengthening its environmental justice policy.

CRPE's primary objection to this Strategy is that it lays out no real substantive benchmarks. Where there is no concrete end in sight, simple compliance with process or procedure is ineffectual. A large part of the problem stems from the definition of environmental justice in CA's Government Code section 65040.12. Environmental justice *is* about fair treatment for all people, but even more fundamentally, it is about pollution reduction and prevention for those who, because of poverty and race, are exposed to many more health hazards than others. As such, Cal/EPA should use the Precautionary Principle as the basis for all environmental and public health laws, regulations and decision-making processes. The precautionary approach imposes a duty to prevent pollution. Adherence to the principle creates a duty to err on the side of safety, especially where risk is perceived but there is not yet certainty as to the degree of risk.

The simple fact is that achieving environmental justice... requires addressing current environmental problems and preventing new ones.¹

¹Martha Matsuoka, ed. *Building Healthy Communities From the Ground Up: Environmental Justice in California*. Asian Pacific Environmental Network, et al., 2004. p.13

While the four stated goals in the Inter-Agency EJ Strategy are essential to the strategy, in order to achieve its stated objectives,² Cal/EPA should also adopt substantive goals which incorporate the precautionary principle as well as other concrete objectives.

The Inter-Agency EJ Strategy identifies Cal/EPA's mission, vision, core values, four strategic goals and objectives for achieving the goals. The mission statement and four goals are addressed below.

Mission

The precautionary principle should serve as the underlying impetus behind every Cal/EPA action. In other words, according to the highest respect and value to every individual and community means that actual preventive measures must be taken in response to perceived harms.

Goal 1: Public Participation and Community-Capacity Building

Ensuring meaningful public participation means that Cal/EPA must make a commitment to respond to expressed public interests. A community must be allowed to not only participate in, but also have an actual effect on the results of any action. In other words, community input must be acted on, not just listened to. Participation is only meaningful if it is efficacious.

When access to information necessary for participation in environmental-decision making is increased, Cal/EPA should be prepared to respond to the public as an informed decision-maker and stakeholder.

Goal 2: Environmental Justice Integration

² The Draft EJ Strategy sets forth the Agency's environmental justice mission, vision, core values, goals, and objectives to guide Cal/EPA's Boards, Departments, and Office (BDOs) in integrating EJ into programs, policies, and activities. This strategy, which represents Cal/EPA's overarching environmental justice vision, is also intended to guide Cal/EPA's BDOs in identifying and addressing gaps in existing programs, policies, and activities that may impede the achievement of environmental justice.

To prevent new environmental justice problems, the precautionary principle should be applied not only to initial rule makings or permit decisions, but should also infuse all later assessments as to whether the permits or rules are achieving intended goals. Cal/EPA should incorporate an Alternatives assessment, including the Alternative, into the process of evaluating new permits.³ Permits should be denied in communities where certain thresholds of exposure to pollution have already been reached.

The most important aspect of this goal is that concrete and enforceable mechanisms be put in place to implement environmental justice goals. Most important is Cal/EPA's commitment to Adequate and fair deployment of enforcement resources. Regions with environmental justice concerns must have equal access to the tools needed to effectively address those problems.

Goal 3: Research and Data Collection

Achieving environmental justice is a goal that will require continual development of every strategy and approach. Cal/EPA's EJ clearinghouse should, among other strategies, canvass other states, and environmental justice organizations throughout the United States and the world, for the most effective approaches.

The commitment to Acommunity-based projects is important to concrete the goal of community capacity building. Community input should not be limited to the time after a decision has virtually already been made. Instead, community participation during all phases ensures that each community is better informed and a better partner in the effort to achieve environmental justice.

Goal 4: Cross-Media Coordination and Accountability

Cross-media coordination and accountability are vital to the achievement of environmental justice. However, each agency must make its own substantive commitment to pollution prevention and the precautionary approach. Thus, Accountability in environmental justice objectives is more properly ensured.

Conclusion

Achieving environmental justice in California means that the environmental, economic, social and overall health of our communities and therefore our state is strengthened. It is our hope that Cal/EPA will address the issues raised in these comments by making substantive goals a part of its EJ Strategy.

Sincerely,

Marybelle Nzegwu, Law Clerk
Caroline Farrell, Directing Attorney

³ Martha Matsuoka, ed. *Building Healthy Communities From the Ground Up: Environmental Justice in California*. Asian Pacific Environmental Network, et al., 2004. p. 14